



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**

(Implements RCW 34.05.310)  
Do NOT use for expedited rule making

**Agency:** Department of Ecology AO # 13-10

**Subject of possible rule making:** Ecology proposes to amend Chapter 173-182 WAC Oil Spill Contingency Plan to update the definition of plan holder to include all persons listed in RCW 88.46.060 and update the definition of “umbrella plan” to ensure the term is used only when referring to non-profit corporations. Ecology also plans to amend the rule so that owner/operators, if operating under a plan that covers multiple parties, are not required to comply with provisions of the rule that apply specifically to “plan holders.”

**Statutes authorizing the agency to adopt rules on this subject:** RCW 88.46.060, RCW 90.46.050

**Reasons why rules on this subject may be needed and what they might accomplish:** Inconsistencies between governing RCWs and Chapter 173-182 WAC create a confusing and potentially harmful situation in which Ecology is unable to adequately regulate oil spill contingency plans. RCW 88.46.060 and WAC 173-182-110 provide owner/operators, nonprofit corporations, PRCs, and agents the opportunity to submit a contingency plan covering one or more vessels or facilities. The definition of “plan holder,” however, only includes owner/operators and nonprofit corporations. Many of the provisions throughout the rule apply specifically to “plan holders.” Some entities may not be subject to many of the rule requirements. RCW 88.46.060(3)(a) & (b) states that an “umbrella plan” may only be submitted by a non-profit entity. The rule language, however, uses the term to apply to all plan holders covering multiple entities, regardless of corporate structure. A contingency plan assures that, in the event of a spill, the vessel or facility will have adequate response equipment, local spill response teams, spill notifications, and response coordination with state and federal partners. A vessel operating without the important services and regulatory safeguards that a plan provides creates a threat to public health, safety and general welfare. Ecology wants to amend its rule consistent with the statute to clarify that for-profit companies like the National Response Corporation (NRC) are subject to the same or similar requirements as the companies that have traditionally provided contingency plan coverage for multiple vessels (the non-profits) and to clarify what requirements vessels covered under the plan must still meet.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:** United States Coast Guard regulates vessel traffic in Washington waters. Ecology will inform them of this rule making and coordinate with them on subjects of mutual interest.

**Process for developing new rule (check all that apply):**

- ☐ Negotiated rule making
- ☐ Pilot rule making
- ☐ Agency study

☒ Other (describe) This rule making is to amend an existing rule. Ecology is seeking input from the public, industry, environmental groups, and tribal, state, and federal representatives. A minimum of one public hearing will be conducted. The proposed amendments will be provided to all parties that have identified themselves as interested in this rule making, and will be posted on the internet at <http://www.ecy.wa.gov/programs/spills/rules/main.html>.

**How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:**

(List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

Amanda Righi  
Spill Prevention, Preparedness, and Response  
PO Box 47600  
Lacey, WA  
360-407-7040  
amanda.righi@ecy.wa.gov

**DATE**  
12/9/13

**NAME (TYPE OR PRINT)**  
Dale Jensen

**SIGNATURE**

**TITLE**  
Program Manager

**CODE REVISER USE ONLY**

OFFICE OF THE CODE REVISER  
STATE OF WASHINGTON  
FILED

**DATE: December 13, 2013**

**TIME: 10:14 AM**

**WSR 14-01-066**